

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PAINTERS JOINT COMMITTEE, et al.,
 Plaintiffs,
 vs.
 FRANKLIN DRYWALL, INC.,
 Defendant.

Case No. 2:09-cv-00042-KJD-PAL

ORDER

This matter came before the court on a Notice of Satisfaction of Judgment (Dkt. #45) filed May 10, 2010. The Notice (Dkt. #45) represents that Painters Joint Trust Fund, the Plaintiff/Judgment Creditors received payment in full from Franklin Drywall, Inc., the Defendant/Judgment Debtor, in satisfaction of the Judgment (Dkt. #33) entered by the court on January 29, 2010.

On April 29, 2010, the court held a hearing on an Order to Show Cause (Dkt. #40) why a contempt citation should not issue for the failure of Philip J. Franklin, president of Franklin Drywall, Inc., to obey the court's Order (Dkt. #37) granting Plaintiffs' Application for Order Scheduling Judgment Debtor Examination and to Produce Documents (Dkt. #35). The Order (Dkt. #37) directed Mr. Franklin to appear on March 23, 2010 at 9:00 a.m. in the undersigned's courtroom. Daryl E. Martin appeared on behalf of Plaintiffs. Neither Mr. Franklin nor any other authorized officer, director, or managing agent appeared on behalf of Franklin Drywall, Inc. Furthermore, Franklin Drywall, Inc. did not respond to the court's Order to Show Cause (Dkt. #40) or request an extension of time in which to do so.

The court's Order to Show Cause (Dkt. #40) required Mr. Franklin and Franklin Drywall, Inc. to show cause, in writing, no later than April 22, 2010 why a contempt citation should not issue for their failure to comply with the court's Order (Dkt. #37). The Order to Show Cause (Dkt. #40) set a hearing for April 27, 2010 at 10:00 a.m., required Mr. Franklin to personally appear at the hearing, and directed

1 counsel for Plaintiffs to personally serve Franklin Drywall, Inc. with a copy of the Order to Show Cause
2 and file a certificate of service with the Clerk of Court

3 Mr. Franklin did not respond to the court's Order to Show Cause (Dkt. #40) and did not appear
4 for the hearing on April 27, 2010. Counsel for Plaintiffs filed a Proof of Service (Dkt. #41), which
5 contained an affidavit of service indicating that process server Jack Riley personally served and left a
6 copy of the Order to Show Cause (Dkt. #40) with Christina Cupelian, office manager of Franklin
7 Drywall, Inc. at its address, 5130 S. Valley View #110, Las Vegas, NV 89119 on February 9, 2010.
8 When Mr. Franklin failed to appear at the hearing on April 27, 2010, counsel for Plaintiffs requested a
9 bench warrant issue to compel Mr. Franklin's compliance with the court's orders. The court issued the
10 Bench Warrant (Dkt. #44) on April 29, 2010.

11 On May 10, 2010, Plaintiffs filed the Notice of Satisfaction of Judgment (Dkt. #45) indicating
12 that the Judgment Debtor Franklin Drywall, Inc. satisfied all requirements of the Judgment (Dkt. #33)
13 entered by the court. Counsel for Plaintiffs contacted the Clerk's Office and requested that the bench
14 warrant be quashed and that the hearing set for May 13, 2010 be vacated.

15 Accordingly,

16 **IT IS ORDERED:**

- 17 1. The Bench Warrant (Dkt. #44) is QUASHED.
18 2. The hearing set for May 13, 2010 at 3:00 p.m. is VACATED.

19 Dated this 11th day of May, 2010.

20
21 
22 PEGGY A. LEEN
23 UNITED STATES MAGISTRATE JUDGE
24
25
26
27
28